

DETAILED ACTION

Claims 2-8, 10-16 and 21-26 are pending in the application. Claims 2-8, 10-16 and 21-26 are allowed now renumbered as 1-20

Response to Amendment / Arguments

Applicant's arguments, see page 9 of the response, filed June 28th, 2010, with respect to the rejection of claims 1, 9, 17, 18 and 20 under 35 USC 112 1st paragraph have been fully considered and are persuasive. The rejection of claims 1, 9, 17, 18 and 20 under 35 USC 112 1st paragraph has been withdrawn.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Heidi Struse on August 18th, 2010.

The application has been amended as follows:

Claim 7: In line 5, delete one instance of the word "characterized".

Claim 26: Add "Crystalline" as the first word of the claim.

In line 2, before "of structural formula" add "toluene solvate".

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:
International Application Publication No. WO 03/104208 (published December 18th, 2003), International Application Publication No. WO 03/104207 (published December 18th, 2003), U.S. Patent No. 6,730,690 (PGPub US 20040048912 published March 11th, 2004) and U.S. Patent No. 7,179,802 (PGPub US 20040106664 published June 3rd, 2004) each by Olson et al. all teach the preparation of the instant parent compound; however, there is insufficient guidance in the prior art to lead one of ordinary skill in the art to the instantly claimed crystalline forms. See office action dated 03/30/2010, where the examiner discusses the unpredictability with respect to generating crystalline forms on pages 4-8.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew P. Coughlin whose telephone number is (571)270-1311. The examiner can normally be reached on Monday through Thursday from 5:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph McKane can be reached on 571-272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1626

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew P. Coughlin/
Examiner, Art Unit 1626

/Rebecca L Anderson/
Primary Examiner, Art Unit 1626